

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH JOHN FREEMAN,

Defendant.

NO. CR-07-6008-LRS

**SECOND ORDER GRANTING MOTION
TO CONTINUE AND EXCLUDING
SPEEDY TRIAL ACT TIME**

BEFORE THE COURT is Defendant Kenneth Freeman's Second Motion to Continue Trial and Reset Initial Pretrial Conference, Ct. Rec. 42, filed February 20, 2008; Defendant's Motion for Extension of Time to File Motion to Extend the Deadline to File Pretrial Motions, Ct. Rec. 45, filed February 22, 2008; and Defendant's Motion for Extension of Time to File Motion to Extend the Deadline to File Pretrial Motions, Ct. Rec 49, filed March 14, 2008. Defendant Freeman, represented by Stephen Hormel, requests more time to allow for investigation and review with his counsel. The government, represented by Tim Ohms on behalf of Stephanie Lister, had no objections. Defendant indicated he understood the need for a continuance and signed a waiver of speedy trial rights (Ct. Rec. 44). Accordingly, the Court finds that the ends of justice served by

1 granting a continuance outweigh the best interest of the public and the
2 defendant in a speedy trial.

3 **IT IS HEREBY ORDERED:**

4 1. Defendant Kenneth Freeman's Second Motion to Continue Trial and
5 Reset Initial Pretrial Conference, **Ct. Rec. 42**, filed February 20, 2008,
6 is **GRANTED**. Defendant's Motion for Extension of Time to File Motion to
7 Extend the Deadline to File Pretrial Motions, **Ct. Rec. 45**, filed February
8 22, 2008, is **GRANTED**. Defendant's Motion for Extension of Time to File
9 Motion to Extend the Deadline to File Pretrial Motions, **Ct. Rec 49**, filed
10 March 14, 2008, is **GRANTED**.

12 2. The trial date of May 5, 2008 is **VACATED**.

13 3. The Court finds that, given the Defendant's need for time to
14 investigate and prepare for trial, the Court's failure to grant a
15 continuance would result in a miscarriage of justice and would deny
16 counsel for the Defendant the reasonable time necessary for effective
17 preparation, taking into account the exercise of due diligence. See 18
18 U.S.C. § 3161(h)(1)(F). The Court therefore finds that the ends of
19 justice served by granting a continuance in this matter outweigh the best
20 interest of the public and the Defendant in a speedy trial. See 18
21 U.S.C. §§ 3161(h)(8)(A).

23 4. All pretrial motions, including motions *in limine*, must be filed
24 and served **NO LATER THAN June 6, 2008**. Responses and replies to any
25 motions shall be filed and served in accordance with LR 7.1(c) and (d).
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1 5. The **Pretrial Conference** is **RESET** to **July 1, 2008 at 1:00 p.m.**
2 in **Spokane**, Washington. At this hearing, scheduled for 1.5 hours, the
3 Court will hear all pretrial motions, including motions *in limine*.

4 6. Trial briefs, requested voir dire, and joint proposed jury
5 instructions shall be filed and served **NO LATER THAN September 15, 2008.**
6 Joint jury instructions should only address issues that are unique to
7 this case, and shall include instructions regarding the elements of each
8 claim or defense, and a proposed verdict form.

9 7. The **jury trial** is **RESET** from May 5, 2008 to **September 22, 2008,**
10 at **9:00 a.m.** in **Yakima**, Washington. **Counsel shall meet with the Court**
11 **in Chambers at 8:30 a.m. on the day of trial.** Any motions unaddressed
12 at the pretrial conference shall be heard in open court on the day of
13 trial at 8:30 a.m., at which time Defendant shall be present. Trial
14 length will be 5 days.

15 8. Pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), the Court **DECLARES**
16 **EXCLUDABLE** from Speedy Trial Act calculations the period from **February**
17 **20, 2008**, the date Defendant moved to continue, through **September 22,**
18 **2008**, the new date of the trial, as the period of delay granted for
19 adequate preparation by counsel.

20 **IT IS SO ORDERED.** The District Court Executive is directed to
21 enter this order and to provide copies to all counsel, the U.S.

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1 Probation Office, the U.S. Marshal, and the Jury Administrator.

2 **DATED** this 28th day of March, 2008.

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4 *s/Lonny R. Suko*

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6 LONNY R. SUKO
7 UNITED STATES DISTRICT JUDGE
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